



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

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Brooklyn, New York 11201*

August 17, 2023

By ECF

The Honorable Eric R. Komitee
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Joshua Adam Schulte v. Warden of Metro. Detention Ctr.*,
Civ. No. 22-cv-766 (Komitee, J.)

Dear Judge Komitee:

This Office represents Respondent Warden of the Metropolitan Detention Center (“MDC”) in the above-referenced action in which Petitioner Joshua Adam Schulte, who is currently incarcerated at MDC, has filed a habeas corpus petition (“Petition”) pursuant to 28 U.S.C. § 2241. ECF No. 1. Respondent writes to respectfully request: (1) a brief adjournment of the in-person status conference scheduled for August 22, 2023 at 3:00 p.m.; and (2) a concomitant extension of Respondent’s time to “advise . . . if it anticipates any need for sealing the courtroom or record or any other steps pertaining to the need to introduce classified information.” *See* Aug. 16, 2023 Minute Entry. This request is made because the undersigned will be out of the office starting today until early next week, and a brief adjournment would afford the undersigned additional time to confer with agency components at the Federal Bureau of Prisons (“BOP”), as well as the U.S. Attorney’s Office for the Southern District of New York (“USAO-SDNY”) (where Petitioner’s criminal prosecution is pending).

By way of background, on February 7, 2022, Petitioner filed the instant action and styled it as a habeas corpus petition pursuant to 28 U.S.C. § 2241. *See* ECF No. 1. Petitioner alleged that his “[c]urrent conditions of confinement violate [the] First, Fourth, Fifth, Sixth, and Eighth Amendments.” *See* Petition, at 4. However, construed liberally, the complaints contained in the Petition, which are summarized in greater detail below, all appear to raise claims under the Eighth Amendment alone and center primarily on the limitations imposed on an inmate subject to Special Administrative Measures (“SAMs”). On February 16, 2022, the Court directed the Government to respond to an Order to Show Cause (“OTSC”) as to why a writ of habeas corpus should not issue. *See* Feb. 16, 2022 Minute Entry. The Government responded to the OTSC on March 25, 2022, *see* ECF No. 6, and Petitioner replied in support of his petition on May 2, 2022. *See* ECF No. 10.

On August 16, 2023, the Court scheduled an in-person status conference for August 22, 2023 at 3:00 p.m. to discuss the parties’ respective positions on the Petition. *See* Aug. 16, 2023 Minute Entry. The Court also directed that Respondent “shall advise the Court by Friday, August

18, 2023, if it anticipates any need for sealing the courtroom or record or any other steps pertaining to the need to introduce classified information.” See Aug. 16, 2023 Minute Entry.

As mentioned above, the undersigned will be away from the office starting today, August 17, 2023, into early next week. Accordingly, Respondent anticipates requiring additional time to confer with BOP and USAO-SDNY, particularly with respect to measures needed to protect classified information. Consultation with USAO-SDNY would be particularly critical in this action given that Petitioner is facing criminal charges in the Southern District of New York for, *inter alia*, stealing national defense information from the Central Intelligence Agency and subsequent transmission of that information to Wikileaks, violating a protective order entered in the criminal case by leaking a search warrant to *The New York Times* and *The Washington Post*, encouraging his family members to disseminate the search warrants, and smuggling contraband cell phones into the Metropolitan Correctional Center, New York (“MCC”) to leak additional classified information to a reporter. As USAO-SDNY is more familiar with the criminal prosecution,¹ and Petitioner generally, that office would be in a better position to advise as to protective measures required (if any) regarding the record in this § 2241 action.

The undersigned respectfully advises that he is generally available on the following dates, should any be convenient for the Court: (1) Thursday, August 24, 2023; (2) Monday, August 28, 2023; and (3) Tuesday, August 29, 2023.

In light of the foregoing, Respondent respectfully requests: (1) a brief adjournment of the in-person status conference scheduled for August 22, 2023 at 3:00 p.m. to a later date and time; and (2) a concomitant extension of Respondent’s time to advise as to any need for sealing the courtroom or record. This is Respondent’s first request for either an adjournment of the in-person status conference or an extension of time to advise as to sealing the courtroom or related measures, and this request does not affect any other scheduled dates. As *pro se* Petitioner is incarcerated, Respondent has been unable to obtain his position on Respondent’s request.

Respondent thanks the Court for its consideration of this matter.

Respectfully submitted,

BREON PEACE
United States Attorney

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¹ This Office also reiterates its position that Petitioner’s § 2241 petition may be transferred to the Southern District of New York in the interests of justice and judicial economy, and that the Government would consent to such a transfer. See Letter, ECF No. 18.

cc: **By Certified Mail**
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Pro se *Plaintiff*